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6 **BEFORE THE**  
7 **BOARD OF REGISTERED NURSING**  
8 **DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2010-131

OAH No. L-2009101448

11 **CHERYL JO AINSWORTH AKA**  
12 **CHERYL JO DYKEMAN**  
13 **1700 Gillette Road #108**  
14 **Pomona, CA 91768**

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

15 **Registered Nurse License No. RN 389413**  
16 **Public Health Nurse Advanced Certification**  
17 **No. 56211**

Respondent.

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19 **FINDINGS OF FACT**

20 1. On or about August 28, 2009, Complainant Louise R. Bailey, M.Ed., RN, in her  
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
22 of Consumer Affairs, filed Accusation No. 2010-131 against Cheryl Jo Ainsworth aka Cheryl Jo  
23 Dykeman (Respondent) before the Board of Registered Nursing.

24 2. On or about August 31, 1985, the Board of Registered Nursing (Board) issued  
25 Registered Nurse License No. RN 389413 to Respondent. The Registered Nurse License was in  
26 full force and effect at all times relevant to the charges brought herein and will expire on May 31,  
27 2009, unless renewed.

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1           3. On or about September 11, 1996, the Board issued Public Health Nurse Advanced  
2 Certification No. 56211 to Respondent. The Public Health Nurse Advanced Certification was in  
3 full force and effect at all times relevant to the charges brought herein and will expire on May 31,  
4 2009, unless renewed.

5           4. On or about September 14, 2009, Clarissa Sison, an employee of the Department of  
6 Justice, served by Certified and First Class Mail a copy of the Accusation No. 2010-131,  
7 Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code  
8 sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which  
9 was:

10           1700 Gillette Road #106  
11           Pomona, CA 91768.

12           A copy of the Accusation is attached as Exhibit A, and is incorporated herein by reference.

13           5. Service of the Accusation was effective as a matter of law under the provisions of  
14 Government Code section 11505, subdivision (c).

15           6. On or about September 28, 2009, Respondent signed and returned a Notice of  
16 Defense, requesting a hearing in this matter. Respondent changed the apartment number of her  
17 address to #108; otherwise her address of record remained the same. On or about December 7,  
18 2009, a Notice of Hearing was served by certified and first class mail at Respondent's address of  
19 record, and it informed her that an administrative hearing in this matter was scheduled for  
20 February 24, 2010. Respondent failed to appear at that hearing.

21           7. Government Code section 11506 states, in pertinent part:

22           (c) The respondent shall be entitled to a hearing on the merits if the respondent  
23 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
24 of the accusation not expressly admitted. Failure to file a notice of defense shall  
25 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
26 may nevertheless grant a hearing.

27           8. California Government Code section 11520 states, in pertinent part:

28           (a) If the respondent either fails to file a notice of defense or to appear at the  
hearing, the agency may take action based upon the respondent's express admissions  
or upon other evidence and affidavits may be used as evidence without any notice to  
respondent.

1       9. Pursuant to its authority under Government Code section 11520, the Board finds  
2 Respondent is in default. The Board will take action without further hearing and, based on the  
3 evidence on file herein, finds that the allegations in Accusation No. 2010-131 are true.

4       10. The total cost for investigation and enforcement in connection with the Accusation  
5 are \$7,401.25 as of February 23, 2010.

6                                   DETERMINATION OF ISSUES

7       1. Based on the foregoing findings of fact, Respondent Cheryl Jo Ainsworth aka Cheryl  
8 Jo Dykeman has subjected her Registered Nurse License No. RN 389413 to discipline.

9       2. A copy of the Accusation is attached.

10      3. The agency has jurisdiction to adjudicate this case by default.

11      4. The Board of Registered Nursing is authorized to revoke Respondent's Registered  
12 Nurse License based upon the following violations alleged in the Accusation:

13      a. Business & Professions Code section 2761, subdivision (a), for unprofessional  
14 conduct, as defined in Code section 2762, subdivision (a), in that on or about October 4, 2008,  
15 Respondent possessed a controlled substance, methamphetamine, was working under the  
16 influence of methamphetamine as a nurse in the emergency room at the East Valley Hospital in  
17 Glendora, CA, and had furnished methamphetamine to C.C. before October 4, 2008; and

18      b. Business & Professions Code section 2761, subdivision (a), for unprofessional  
19 conduct, as defined in Code section 2762, subdivision (b), for use of a controlled substance in a  
20 manner which was dangerous and/or injurious to herself and others, as set forth in Paragraph 4(a)  
21 above.

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**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2010-131

OAH No. L-2009101448

**CHERYL JO AINSWORTH AKA  
CHERYL JO DYKEMAN  
1700 Gillette Road #108  
Pomona, CA 91768**

**Registered Nurse License No. RN 389413  
Public Health Nurse Advanced Certification  
No. 56211**

Respondent.

**DECISION AND ORDER**

IT IS SO ORDERED that Registered Nurse License No. RN 389413, heretofore issued to Respondent Cheryl Jo Ainsworth aka Cheryl Jo Dykeman, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on May 6, 2010.

It is so ORDERED April 6, 2010

  
FOR THE BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS

Attachment: Exhibit A: Accusation No. 2010-131

**Exhibit "A"**  
**Accusation No. 2010-131**

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 HELENE E. SWANSON  
Deputy Attorney General  
4 State Bar No. 130426  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 620-3005  
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2010-131

13 **CHERYL JO AINSWORTH,**  
14 **a.k.a. CHERYL JO DYKEMAN**  
1700 Gillette Road  
c/o Cheryl Ainsworth, #106  
Pomona, CA 91768

**ACCUSATION**

15 **Registered Nurse License No. 389413**  
16 **Public Health Nurse Certificate No. 56211**

17 **Respondent.**

18 **Complainant alleges:**

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),  
22 Department of Consumer Affairs.

23 **Registered Nurse License No. 389413**

24 2. On or about August 31, 1985, the Board issued Registered Nurse License Number  
25 389413 to Cheryl Jo Ainsworth, also known as Cheryl Jo Dykeman ("Respondent").  
26 Respondent's registered nurse license expired on May 31, 2009, and has not been renewed.

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28 **AGO 0001**

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3. On or about September 11, 1996, the Board issued Public Health Nurse Certificate Number 56211 to Respondent. Respondent's public health nurse certificate expired on May 31, 2009, and has not been renewed.

## STATUTORY PROVISIONS

4. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

6. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct . . .

7. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

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AGO 0002

1 8. Health and Safety Code section 11170 states that no person shall prescribe,  
2 administer, or furnish a controlled substance for himself.

3 9. Code section 4060 states, in pertinent part:

4 No person shall possess any controlled substance, except that furnished to  
5 a person upon the prescription of a physician, dentist, podiatrist, optometrist,  
6 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant  
7 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a  
8 nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to  
9 Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist  
10 pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of  
11 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section  
12 shall not apply to the possession of any controlled substance by a manufacturer,  
13 wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,  
14 veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or  
15 physician assistant, when in stock in containers correctly labeled with the name and  
16 address of the supplier or producer . . .

#### 11 COST RECOVERY

12 10. Code section 125.3 provides, in pertinent part, that the Board may request the  
13 administrative law judge to direct a licensee found to have committed a violation or violations of  
14 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
15 enforcement of the case.

#### 16 CONTROLLED SUBSTANCE AT ISSUE

17 11. "Methamphetamine" is a Schedule II controlled substance as designated by Health  
18 and Safety Code section 11055, subdivision (d)(2).

#### 19 FIRST CAUSE FOR DISCIPLINE

##### 20 (Possession, Furnishing, and Self-Administration of a Controlled Substance)

21 12. Respondent is subject to disciplinary action pursuant to Code section 2761,  
22 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,  
23 subdivision (a), in that on or about October 4, 2008, Respondent did the following:

##### 24 Possession of a Controlled Substance:

25 a. Respondent possessed the controlled substance methamphetamine in violation of  
26 Code section 4060, as follows: On the date indicated above, an officer with the Glendora Police  
27 Department went to East Valley Hospital, Glendora, California, to investigate statements made by  
28 C. C., a subject the officer arrested earlier in the night. C. C. told the officer that Respondent had

1 smoked methamphetamine with him a few days ago and was currently working at East Valley  
2 Hospital, and that Respondent had supplied him with the methamphetamine. The officer arrived  
3 at the hospital and contacted Respondent in the Emergency Room; Respondent was on duty  
4 working as a registered nurse. While speaking with Respondent, the officer observed certain  
5 symptoms indicating that Respondent was under the influence of a controlled substance,  
6 including a blank stare, flushed appearance, clenched jaw, and restlessness. Respondent admitted,  
7 that she used methamphetamine the previous Thursday and consented to a search of her purse.  
8 The officer searched the purse and located a glass methamphetamine pipe and a plastic baggy  
9 containing a white crystalline substance that appeared to be methamphetamine. Respondent  
10 admitted that the methamphetamine and pipe were hers. Respondent was placed under arrest for  
11 violations of Health and Safety Code sections 11377, subdivision (a) (unlawful possession of a  
12 controlled substance), and 11364 (unlawful possession of drug paraphernalia), and was  
13 transported to the station jail. Respondent later admitted to the officer that she bought the  
14 methamphetamine in Pomona and had smoked "about a bowl" of the controlled substance  
15 approximately 36 hours prior. While speaking with the officer, Respondent continued to display  
16 objective symptoms indicating that she was under the influence of a controlled substance,  
17 including a blank stare, clenched jaw, flushed appearance, dry mouth, and restlessness. The  
18 officer conducted a drug influence exam, took three pulse readings from Respondent's left wrist,  
19 during which time she exhibited rapid eye tremor, and examined Respondent's pupils. The  
20 officer determined based on Respondent's objective symptoms, Respondent's admissions as  
21 above, and the results of the drug influence exam that Respondent was under the influence of a  
22 CNS stimulant, in violation of Health and Safety Code section 11550, subdivision (a) (using or  
23 being under the influence of a controlled substance). The officer tested the crystalline substance  
24 found in Respondent's purse, which tested positive for methamphetamine.

25 **Furnishing of a Controlled Substance:**

26 b. Respondent furnished the controlled substance methamphetamine to C. C., as set  
27 forth in subparagraph (a) above, without lawful authority therefor.

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AGO 0004

1           **Self-Administration of a Controlled Substance:**

2           c.     Respondent self-administered the controlled substance methamphetamine, as set forth  
3 in subparagraph (a) above, without lawful authority therefor.

4                           **SECOND CAUSE FOR DISCIPLINE**

5                           **(Use of a Controlled Substance to an Extent or in a Manner**  
6                           **Dangerous or Injurious to Oneself or Others)**

7           13.   Respondent is subject to disciplinary action pursuant to Code section 2761,  
8 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,  
9 subdivision (b), in that on or about October 4, 2008, while on duty as a registered nurse in the  
10 Emergency Room at East Valley Hospital, Glendora, California, Respondent used the controlled  
11 substance methamphetamine to an extent or in a manner dangerous or injurious to herself and  
12 others and/or to the extent that such use impaired her ability to conduct her nursing duties safely,  
13 as set forth in subparagraph 12 (a) above.

14                           **PRAYER**

15           WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
16 and that following the hearing, the Board of Registered Nursing issue a decision:

17           1.     Revoking or suspending Registered Nurse License Number 389413, issued to Cheryl  
18 Jo Ainsworth, also known as Cheryl Jo Dykeman;

19           2.     Revoking or suspending Public Health Nurse Certificate Number 56211, issued to  
20 Cheryl Jo Ainsworth, also known as Cheryl Jo Dykeman;

21           3.     Ordering Cheryl Jo Ainsworth, also known as Cheryl Jo Dykeman, to pay the Board  
22 of Registered Nursing the reasonable costs of the investigation and enforcement of this case,  
23 pursuant to Business and Professions Code section 125.3; and

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4. Taking such other and further action as deemed necessary and proper.

DATED: 8/28/09

*Louise R. Bailey*

Louise R. Bailey, M.Ed., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

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